

**COMPLAINT INVESTIGATION  
CLARK COUNTY SCHOOL DISTRICT  
(#CL101007)**

**INTRODUCTION**

On October 10, 2007, the Nevada Superintendent of Public Instruction received a complaint dated October 10, 2007, from the advocate of the parents of a student with disabilities alleging violations in the special education program in the Clark County School District (CCSD). Subsequently in an agreement dated November 19, 2007, the parents withdraw some of the allegations as part of a resolution agreement. An investigation team was appointed to examine the remaining allegations which were that the CCSD failed to provide, for the first two weeks the student attended school in the 2007/2008 school year, an adult assistant with signing skills for transition, attention to task, and staying in the environment and adult assistance with signing skills needed for toileting, eating, writing, cutting, and gluing.

**COMPLAINT ISSUE**

Federal regulations at 34 CFR §300.151 give the Nevada Department of Education (NDE) jurisdiction to investigate complaints that a public agency has violated a requirement of Part B of the Individuals with Disabilities Education Act (IDEA). The allegations in the complaint, clarified by a review of the documents and interviews, raised the following issue under the jurisdiction of the NDE:

ISSUE: Whether CCSD implemented the student's Individualized Educational Program (IEP) from September 4, 2007–September 13, 2007, with regard to accommodations and modifications, specifically providing an adult assistant with signing skills needed for transition, attention to task and staying in the environment, and adult assistance with signing skills needed for toileting, eating, writing, cutting, and gluing.

**PERSONS INTERVIEWED**

The investigation team interviewed, on phone or through e-mail, the following persons:

- School principal
- Special education teacher
- Northwest region special education coordinator (coordinator)
- Advocate

**DOCUMENTS REVIEWED**

The investigation team reviewed the following documents:

- A copy of the student's 5/24/07 IEP
- The student's attendance record
- A copy of the school calendar for August and September of 2007
- Student's progress reports for 2007/2008 school year
- CCSD e-mails dated between August 9, 2007–October 30, 2007
- Support staff vacancies posting for CCSD dated August 15, 2007

The investigation team also reviewed the following material:

- Nevada Administrative Code (NAC), Chapter 388
- Individuals with Disabilities Education Act (IDEA) Regulations, 34 CFR Part 300
- 1999 Federal IDEA Regulations, *Federal Register*, Vol. 64, No. 48, March 12, 1999, p. 12579.

## **FINDINGS OF FACT**

This investigation involved an eight year old student with multiple impairments who was enrolled in CCSD. A review of documents, interviews with the school principal, the special education teacher, the coordinator, and the advocate revealed the following facts.

The student's 2007/2008 school year began on August 27, 2007, with a 5/24/07 IEP in effect that included extended school year services for the student. The 2007/2008 placement was in a different CCSD school (new school) than the student attended from 5/24/07 through the extended school year. Attendance records document that, for the 2007/2008 school year, the student attended school from Tuesday, September 4<sup>th</sup> through Monday, September 10<sup>th</sup>. The mother kept the student at home from September 11<sup>th</sup> through the 13<sup>th</sup> because of the lack of adults with signing skills who could assist the student. On September 13<sup>th</sup> the student's placement location was changed to another school.

The IEP required, as an accommodation and modification, that the student have on a daily basis: an adult assistant with signing skills to assist with transition, attention to task and staying in the environment; and adult assistance with signing skills needed for toileting, eating, writing, cutting, and gluing. For the purposes of this investigation report, both the adult assistant and the adult assistance are referred to collectively as "adult signing assistance."

CCSD e-mails indicate that staff were aware, as of August 9<sup>th</sup>, of the need that the student had for adult signing assistance for the 2007/2008 school year in the new school but that there was some confusion as to which CCSD entity would provide the adult signing assistance, specifically whether it would be the low incidence group or the new school itself. The new school principal and the coordinator reported that prior to the beginning of the 2007/2008 school year the school had an instructional aide who could have provided the adult signing assistance as indicated in the IEP, but that due to CCSD human resource policy with regard to seniority, another instructional aide, who did not sign, was assigned to the student's classroom.

The school principal and the coordinator reported that a subsequent effort to recruit staff who could provide adult signing assistance was unsuccessful, and no adult signing assistance was provided to the student from September 4<sup>th</sup> through September 13<sup>th</sup> with the exception of two days when the parent remained in the classroom because of the lack of a signing aide. The special education teacher reported that when in the classroom, the student could not begin or stay on task for any activity unless someone was physically assisting her and that there was no adult assistant with signing skills available to assist her with transition, attention to task and staying in the environment, toileting, eating, writing, cutting, and gluing with the exception of the time the mother volunteered in the classroom.

Subsequent to the initial filing of the complaint, CCSD agreed to provide the student with 36 hours of compensatory education as part of the resolution agreement addressing allegations that had been withdrawn from the original complaint and which related to the same time period.

## **CONCLUSIONS OF LAW AND REASONS**

ISSUE: Whether CCSD implemented the student's IEP from September 4, 2007–September 13, 2007, with regard to accommodations and modifications, specifically providing an adult assistant with signing skills needed for transition, attention to task and staying in the environment, and adult assistance with signing skills needed for toileting, eating, writing, cutting, and gluing.

This complaint concerned an allegation that the CCSD failed to provide adult assistance with signing skills needed for transition, attention to task and staying in the environment, and not providing adult assistance with signing skills needed for toileting, eating, writing, cutting, and gluing.

State regulations at NAC §388.281.6(g) require that the school district shall “provide the services and instruction deemed necessary for the pupil by the [IEP] committee.”

State regulations at NAC §388.281.6(e) require that the program shall be implemented “as soon as possible after it is developed.” The United States Department of Education’s discussion in the previous IDEA law (1997) on the implementation of an initial IEP is instructive with regard to the interpretation of “as soon as possible” and permissible exceptions. The United States Department of Education indicated that a short delay of a “week or two” in the implementation of an IEP may be reasonable, for example, in order to find a qualified service provider. (*Federal Register*, Vol. 64, No. 48, March 12, 1999, p. 12579) (underlined for emphasis).

In this case, the IEP required that the student have, on a daily basis, an adult assistant with signing skills needed for transition, attention to task and staying in the environment, and adult assistance with signing skills needed for toileting, eating, writing, cutting, and gluing. CCSD staff conceded that it did not provide this adult signing assistant from September 4, 2007, through September 13, 2007.

The student’s need for adult signing assistance was identified in the 5/27/07 IEP and that IEP was part of the student’s extended school year. CCSD staff at the new school had knowledge of the student’s need for signing assistance for the 2007/2008 school year approximately three weeks before the school year started on August 27, 2007, and approximately four weeks before the student actually attended school on September 4, 2007, but did not provide the adult signing assistance when the student began to attend school. The absence of the adult signing assistance resulted in the student being unable to participate in all the activities for which the adult signing assistance was targeted (writing, cutting, gluing) and limited the student’s ability to attend to all tasks, thus significantly limiting the student’s participation in curriculum throughout the day. Even though a short delay of a week or two in the implementation of a newly developed IEP might be reasonable, this IEP had been in effect since May of 2007. Therefore the standard of the possible reasonableness of a short delay of a week or two to find a qualified service provider for a newly developed IEP is not applicable.

The complaint investigation team recognizes that CCSD made an effort to provide personnel to provide adult signing assistance, and that the failure to do so was due first to human resource policy and subsequently to some confusion as to what CCSD entity would provide the adult signing assistant and an inability to recruit an instructional assistant with signing skills. In addition, although the parent provided assistance for two days, it was CCSD’s obligation to provide the adult signing assistance, not the parent’s. CCSD, despite the circumstances, was not relieved of its obligation to provide the adult signing assistance in conformity with the student’s IEP and its failure to do resulted in an unreasonable delay of time for implementation of the IEP with relation to adult signing assistance.

*Therefore, the investigation team concluded that CCSD did violate state regulations when it did not provide an adult assistant with signing skills needed for transition, attention to task and*

*staying in the environment, and adult assistance with signing skills needed for toileting, eating, writing, cutting, and gluing.*

### **ORDER FOR CORRECTIVE ACTION**

The CCSD is required to take corrective actions to address the violation found in this complaint investigation. Specifically, the district did not provide adult signing assistance as required by the IEP.

NDE recognizes that CCSD has agreed to provide 36 hours of compensatory education services to the student as part of its resolution of previous allegations in this complaint which covered the same time period and no further compensatory education is ordered. Documentation of the provision of compensatory education services must be provided to the NDE within 30 days of completion of the services.

Within 30 days of receipt of this report, the CCSD must develop and submit to the NDE a proposed Corrective Action Plan (CAP). The CAP must include a plan including timelines to review and revise, where necessary, site-level and district-level policies and procedures, and provide training to pertinent staff, including relevant human resources personnel, low incidence staff and administrators regarding federal and state requirements with regard to implementing IEPs as written, specifically concerning the provision of staff who can assist with signing.

The CAP must be approved by the NDE prior to implementation. Following implementation of the approved activities, documentation of district corrective actions must be provided to the NDE within 30 days of completion.